

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, FORT MYERS DIVISION

**Delta Build Services, Inc. v. E2F Homes, LLC; Francisco Orselli;
Elena Orselli; Ashley Ireland; Delgado Legal, P.A.**

Delta Build Services · No. 2:25-cv-995-JES-DNF · Decided December 17, 2025

SUMMARY

The United States District Court for the Middle District of Florida grants in part and denies in part Delta Build Services, Inc.’s motion to remand. The court holds that the state-law Florida RICO claim does not present a substantial federal question and remands the case to Florida state court, but concludes that the unserved defendant’s consent was not required for removal. The court denies attorney’s fees because the removal had an objectively reasonable basis.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Fort Myers Division
WRITING FOR THE COURT	John E. Steele
JURISDICTION	United States District Court for the Middle District of Florida, Fort Myers Division
DECIDED	December 17, 2025
DOCKET	2:25-cv-995-JES-DNF
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff moved to remand a removed state-law action to Florida state court and requested attorney’s fees under 28 U.S.C. § 1447(c).
STANDARD OF REVIEW	The removing defendants bear the burden of establishing federal jurisdiction, and doubts are resolved in favor of remand. The court also applied the objectively reasonable basis standard to the request for attorney’s fees under 28 U.S.C. § 1447(c).
PRECEDENTIAL VALUE	Nonprecedential district court opinion; persuasive authority only

TOPICS

- subject matter jurisdiction
- federalism
- civil procedure
- commercial litigation
- construction law

PRACTICE AREAS

civil procedure

federal jurisdiction

removal and remand

commercial litigation

construction law

QUESTIONS PRESENTED

1. Whether references to federal statutes as predicate acts in a Florida RICO claim created federal-question jurisdiction under 28 U.S.C. § 1331.
2. Whether removal was defective because Delgado Legal, an unserved defendant, did not consent to removal.
3. Whether Delta Build Services was entitled to attorney's fees under 28 U.S.C. § 1447(c) following remand.

HOLDINGS

1. References to federal mail-fraud, wire-fraud, and trade-secret statutes as predicate acts in the Florida RICO claim did not establish federal-question jurisdiction because the federal issues were not shown to be necessarily raised, actually disputed, substantial to the federal system as a whole, and capable of resolution in federal court without disrupting the federal-state balance.
2. Delgado Legal's consent was not required because it had not been properly served when the action was removed.
3. Attorney's fees under 28 U.S.C. § 1447(c) were properly denied because the removing defendants had an objectively reasonable basis for seeking removal.

KEY QUOTATIONS

“The “substantial” requirement is “about the importance of the issue to the federal system as a whole” and all four of the requirements must be shown.”

“There is no basis to find that plaintiff’s claims fall within this “special and small category of cases” that arise under federal law.”

FACTUAL BACKGROUND

Delta Build Services alleged Florida-law claims arising from unpaid payment claims, allegedly falsified records, concealed contractor balances, and fraudulent real estate closings. Its Florida RICO count identified federal mail-fraud, wire-fraud, and trade-secret statutes among the alleged predicate acts, along with several Florida statutes. E2F Homes and the Orsellis removed the action on the theory that these federal references created federal-question jurisdiction; Delgado Legal had not been served when removal occurred.

PROCEDURAL HISTORY

Delta Build Services filed a multi-count Florida-law complaint in the Lee County Circuit Court. E2F Homes and the Orsellis removed the action to federal court, asserting federal-question jurisdiction based on federal statutes referenced as predicate acts in the Florida RICO claim. The district court granted remand, denied attorney's fees, and rejected the separate argument that removal was premature because Delgado Legal had not yet been served.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Clerk was directed to remand the case to the Circuit Court of the Twentieth Judicial Circuit, in and for Lee County, Florida, transmit a certified copy of the order to that court, terminate pending motions and deadlines, and close the federal case. Attorney's fees were denied.

CASES CITED

- Caterpillar, Inc. v. Williams, 482 U.S. 386, 392 (1987)
- Adventure Outdoors, Inc. v. Bloomberg, 552 F.3d 1290, 1294 (11th Cir. 2008)
- Schleider v. GVDB Operations, LLC, 121 F.4th 149, 155-56 (11th Cir. 2024)
- Dunlap v. G&L Holding Grp., Inc., 381 F.3d 1285, 1289-90 (11th Cir. 2004)
- Franchise Tax Bd. v. Constr. Laborers Vacation Tr., 463 U.S. 1, 13 (1983)
- Mobil Oil Corp. v. Coastal Petroleum Co., 671 F.2d 419, 422 (11th Cir. 1982)
- Gunn v. Minton, 568 U.S. 251, 257-58 (2013)
- Royal Canin U.S.A., Inc. v. Wulschleger, 604 U.S. 22, 26 (2025)
- Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg., 545 U.S. 308, 313-14 (2005)
- AST & Sci. LLC v. Delclaux Partners SA, 143 F.4th 1249, 1253 (11th Cir. 2025)
- Jackson v. BellSouth Telecommunications, 372 F.3d 1250, 1263 (11th Cir. 2004)
- S.Y. v. Wyndham Hotels & Resorts, Inc., 521 F. Supp. 3d 1173, 1188 n.9 (M.D. Fla. 2021)
- Palmas Y Bambu, S.A. v. E.I. Dupont De Nemours & Co., Inc., 881 So. 2d 565, 570 n.1 (Fla. 3d DCA 2004)
- Empire Healthchoice Assurance, Inc. v. McVeigh, 547 U.S. 677, 699, 701 (2006)
- Ayres v. Gen. Motors Corp., 234 F.3d 514, 519 (11th Cir. 2000)
- Bailey v. Janssen Pharmaceutica, Inc., 536 F.3d 1202, 1207 (11th Cir. 2008)
- Russell Corp. v. Am. Home Assur. Co., 264 F.3d 1040, 1050 (11th Cir. 2001)
- Shakouri v. Davis, 923 F.3d 407, 410 (5th Cir. 2019)
- Martin v. Franklin Capital Corp., 546 U.S. 132, 141 (2005)